

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAPSTONE TRAINING LLC,

Plaintiff,

v.

AMERICAN FAMILY INSURANCE
CO., et al.,

Defendants.

CASE NO. C20-1065 MJP

ORDER TO SHOW CAUSE

This matter comes before the Court on Plaintiff Capstone Training LLC's Motion to Remand. (Dkt. No. 5.) Having reviewed the Motion, the Response (Dkt. No. 6), the Reply (Dkt. No. 8), the Surreplies (Dkt. Nos. 9-10), and all related papers, the Court ORDERS Defendants to show cause by **November 11, 2020** why this matter should not be remanded to King County Superior Court.

The Parties dispute whether Defendant's removal of this action from King County Superior Court on July 10, 2020 was timely. "[T]he notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or

1 otherwise, of a copy of the initial pleading setting forth the claim for relief” 28 U.S.C.
2 §1446(b)(1). A defendant seeking to remove a case to a federal court must file in the federal
3 forum a notice of removal “containing a short and plain statement of the grounds for removal.”
4 § 1446(a). There is no requirement that the defendant attach evidence supporting removal to the
5 notice of removal. Dart Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81, 87 (2014).

6 On May 28, 2020, Plaintiff Capstone Training LLC filed a summons and complaint with
7 the King County Superior Court. (Dkt. No. 1, Ex. No. 1.) On June 1, 2020, Plaintiff served a
8 summons and complaint on the Office of the Insurance Commissioner, as the designated agent
9 for service of process on Defendant American Family Insurance Company. (Id. Ex. 12 at 2); see
10 RCW 48.05.200. Once the Commissioner is served, it “must send or make available a copy of
11 the process to the person on whose behalf he or she has been served by mail The copy must
12 be sent or made available in a manner that is secure and with a receipt that is verifiable.” RCW
13 48.02.200. The thirty-day deadline for removal begins to run once the insurer receives the
14 summons and complaint from the Office of the Insurance Commissioner. Anderson v. State
15 Farm Mut. Auto. Ins. Co., 917 F.3d 1126, 1129-30 (9th Cir. 2019).

16 Defendant contends that a form from its registered agent, CSC, which lists June 11, 2020
17 as the date CSC was served by the Insurance Commissioner provides sufficient evidence that
18 service was effectuated on that date. (Dkt. No. 6 at 2 (citing Dkt. No. 1, Ex. 12 at 1).) But
19 Plaintiff notes the document does not include a “signature from anyone, including defense
20 counsel, claiming to have personal knowledge that the date listed is the true and correct date
21 reflecting service.” (Dkt. No. 8 at 2.) Furthermore, attached to Defendant’s Notice of Removal
22 is a copy of an envelope sent by certified mail from the Office of the Insurance Commissioner
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1 addressed to American Family Insurance and dated June 8, 2020, which is more than 30 days
2 before Defendant removed this matter. (Dkt. No. 1, Ex. 12 at 36.)

3 Because Plaintiff has challenged the timing of Defendant's removal of this matter, there
4 is conflicting evidence regarding the date Defendant received the complaint and summons, and
5 this issue may be easily resolved through the Commissioner's verifiable evidence of service to
6 Defendant, RCW 48.02.200, the Court ORDERS Defendant American Family Insurance to
7 submit evidence supporting its argument that removal to this Court was timely by **November 11,**
8 **2020.** Plaintiff's Motion to Remand (Dkt. No. 5) will also be re-noted for November 11, 2020.

9
10 The clerk is ordered to provide copies of this order to all counsel.

11 Dated October 28, 2020.

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14 Marsha J. Pechman
United States Senior District Judge